

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1658

Introduced by Assembly Member Sharon Runner

February 23, 2007

~~An act to amend Section 23387 of the Business and Professions Code, relating to alcoholic beverages. An act to amend Sections 25619, 25658, 25658.5, 25660.5, 25661, and 25662 of the Business and Professions Code, and to amend Sections 13004.1 and 14610.1 of the Vehicle Code, relating to alcoholic beverages.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1658, as amended, Sharon Runner. Alcoholic beverages: ~~sales; underage drinking.~~

(1) *The Alcoholic Beverage Control Act provides that every peace officer and district attorney in California enforce the act and inform against and diligently prosecute persons whom they have reasonable cause to believe offenders of the act. An officer refusing or neglecting to do so is guilty of a misdemeanor. Existing law requires a court to suspend the driving privilege for one year of persons under the age of 21, but 13 years of age or older, who commit enumerated offenses relating to alcohol or drugs.*

This bill would include the provision regarding suspension of driving privileges to the Alcoholic Beverage Control Act's requirement that every peace officer and district attorney enforce the act, as provided.

(2) (A) *Existing law provides that every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to a person under the age of 21 years is guilty of a misdemeanor punishable by a fine of \$1,000 and community service.*

(B) Existing law also provides that any person under the age of 21 years who purchases any alcoholic beverage or who consumes any such beverage in any on-sale premises is guilty of a misdemeanor. Existing law provides, with respect to this misdemeanor, that a first violation is punishable by a fine of not more than \$250 and community service and for subsequent violations, a fine of \$500 and community service.

(C) Under the Alcoholic Beverage Control Act, it is a misdemeanor for any person to provide an alcoholic beverage to a person under the age of 21 years who consumes the beverage and thereby proximately causes great bodily injury or death, as specified. Additionally, existing law provides that any on-sale licensee who knowingly permits a person under the age of 21 years to consume alcoholic beverages in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor. Existing law provides that the penalties imposed under this provision do not preclude prosecution under any other provision of law.

(D) This bill would make these acts described in (A) above punishable by a fine of \$2,500 and by imprisonment in the county jail for not more than one year. This bill would increase the fines for the acts described in (B) to \$500 for a first violation and \$1,000 for subsequent violations. This bill would also provide that the penalties imposed under (A), (B), and (C) above do not preclude the imposition of penalties under a specified provision of law.

(3) The Alcoholic Beverage Control Act provides that any person under the age of 21 years who attempts to purchase any alcoholic beverage from a licensee, or the licensee's agent or employee, is guilty of an infraction. The act further provides, with respect to this infraction, that a first violation is punishable by a fine of not more than \$100 and for subsequent violations, a fine of \$250 or community service.

This bill would increase the fine for a first violation to \$500 and to \$1,000 for subsequent violations. This bill would also provide that penalties imposed under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(4) Existing law provides that any person who sells, gives, or furnishes to any person under the age of 21 years a false or fraudulent written, printed, or photostatic evidence of the majority and identity of that, or any other, person, is guilty of a misdemeanor.

This bill would provide that this act is punishable by a fine of \$2,500 and imprisonment in a county jail for not more than one year.

(5) *The Alcoholic Beverage Control Act provides that any person under the age of 21 years who presents to a licensee any false identification for the purpose of ordering or purchasing or attempting to order or purchase alcoholic beverages is guilty of a misdemeanor, and subject to a fine of at least \$250, or specified community service, or both. Existing law provides that a 2nd or subsequent violation would be punishable by a fine of not more than \$500 or community service, as specified, or a combination of fine and community service, as the court deems just.*

This bill would increase the fine for a first violation to \$500 and to \$1,000 for subsequent violations. This bill would also provide that penalties imposed under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(6) *The Alcoholic Beverage Control Act makes it a misdemeanor for a person under the age of 21 years to have in his or her possession any alcoholic beverage on any street or highway or in any public place or place open to the public. Existing law makes a first violation of that provision punishable by a fine of at least \$250 or between 24 and 32 hours of community service and a 2nd or subsequent violation a misdemeanor punishable by a fine of not more than \$500, 36 to 48 hours of community service, and provides that any grant of probation shall include the fine and not less than 50 hours of community service.*

This bill would increase the fine for a first violation to \$500 and to \$1,000 for subsequent violations. This bill would also provide that penalties imposed under this provision do not preclude prosecution or the imposition of penalties under any other provision of law.

(7) *Existing law prescribes certain unlawful acts relating to the use of identification cards and driver's licenses issued by the Department of Motor Vehicles. Existing law specifically prohibits the manufacture or sale of an identification document of a size and form substantially similar to the identification cards or the driver's licenses issued by the department. A violation of these prohibitions is a misdemeanor.*

This bill would provide that a violation of these provisions is punishable as either a misdemeanor or felony.

By creating a new crime, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law permits a wholesaler or rectifier to sell the alcoholic beverages mentioned in his or her license to persons who take delivery of the alcoholic beverages within the state for delivery or use outside of the state within 90 days from the date of the sale in accordance with rules and regulations prescribed by the Department of Alcoholic Beverage Control.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 25619 of the Business and Professions*
2 *Code is amended to read:*

3 25619. Every peace officer and every district attorney in this
4 State shall enforce the provisions of this division *and Section*
5 *13202.5 of the Vehicle Code* and shall inform against and diligently
6 prosecute persons whom they have reasonable cause to believe
7 offenders against the provisions of this division *and Section*
8 *13202.5 of the Vehicle Code*. Every such officer refusing or
9 neglecting to do so is guilty of a misdemeanor.

10 *SEC. 2. Section 25658 of the Business and Professions Code*
11 *is amended to read:*

12 25658. (a) Except as otherwise provided in subdivision (c),
13 every person who sells, furnishes, gives, or causes to be sold,
14 furnished, or given away, any alcoholic beverage to any person
15 under the age of 21 years is guilty of a misdemeanor.

16 (b) Any person under the age of 21 years who purchases any
17 alcoholic beverage, or any person under the age of 21 years who
18 consumes any alcoholic beverage in any on-sale premises, is guilty
19 of a misdemeanor.

20 (c) Any person who violates subdivision (a) by purchasing any
21 alcoholic beverage for, or furnishing, giving, or giving away any
22 alcoholic beverage to, a person under the age of 21 years, and the
23 person under the age of 21 years thereafter consumes the alcohol
24 and thereby proximately causes great bodily injury or death to
25 himself, herself, or any other person, is guilty of a misdemeanor.

(d) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

(e) (1) Except as otherwise provided in paragraph (2) or (3), any person who violates this section shall be punished by a fine of ~~two hundred fifty dollars (\$250)~~ *five hundred dollars (\$500)*, no part of which shall be suspended, or the person shall be required to perform not less than 24 hours or more than 32 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. A second or subsequent violation of subdivision (b) shall be punished by a fine of not more than ~~five hundred dollars (\$500)~~ *one thousand dollars (\$1,000)*, or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed and is not attending school, or a combination of a fine and community service as determined by the court. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(2) Except as provided in paragraph (3), any person who violates subdivision (a) by furnishing an alcoholic beverage, or causing an alcoholic beverage to be furnished, to a minor shall be punished by a fine of ~~one thousand dollars (\$1,000)~~ *two thousand five hundred dollars (\$2,500)*, no part of which shall be suspended, and ~~the person shall be required to perform not less than 24 hours of community service during hours when the person is not employed and is not attending school~~ *by imprisonment in the county jail for not more than one year.*

(3) Any person who violates subdivision (c) shall be punished by imprisonment in a county jail for a minimum term of six months not to exceed one year, by a fine not exceeding one thousand dollars (\$1,000), or by both imprisonment and fine.

(f) Persons under the age of 21 years may be used by peace officers in the enforcement of this section to apprehend licensees, or employees or agents of licensees, who sell alcoholic beverages to minors. Notwithstanding subdivision (b), any person under the

1 age of 21 years who purchases or attempts to purchase any
2 alcoholic beverage while under the direction of a peace officer is
3 immune from prosecution for that purchase or attempt to purchase
4 an alcoholic beverage. Guidelines with respect to the use of persons
5 under the age of 21 years as decoys shall be adopted and published
6 by the department in accordance with the rulemaking portion of
7 the Administrative Procedure Act (Chapter 3.5 (commencing with
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
9 Code). Law enforcement-initiated minor decoy programs in
10 operation prior to the effective date of regulatory guidelines
11 adopted by the department shall be authorized as long as the minor
12 decoy displays to the seller of alcoholic beverages the appearance
13 of a person under the age of 21 years. This subdivision shall not
14 be construed to prevent the department from taking disciplinary
15 action against a licensee who sells alcoholic beverages to a minor
16 decoy prior to the department's final adoption of regulatory
17 guidelines. After the completion of every minor decoy program
18 performed under this subdivision, the law enforcement agency
19 using the decoy shall notify licensees within 72 hours of the results
20 of the program. When the use of a minor decoy results in the
21 issuance of a citation, the notification required shall be given within
22 72 hours of the issuance of the citation. A law enforcement agency
23 may comply with this requirement by leaving a written notice at
24 the licensed premises addressed to the licensee, or by mailing a
25 notice addressed to the licensee.

26 (g) The penalties imposed by this section do not preclude
27 prosecution *or the imposition of penalties* under any other provision
28 of law, including, but not limited to, Section 272 of the Penal Code
29 *and Section 13202.5 of the Vehicle Code*.

30 *SEC. 3. Section 25658.5 of the Business and Professions Code*
31 *is amended to read:*

32 25658.5. (a) Any person under the age of 21 years who
33 attempts to purchase any alcoholic beverage from a licensee, or
34 the licensee's agent or employee, is guilty of an infraction and
35 shall be punished by a fine of not more than ~~one hundred dollars~~
36 ~~(\$100)~~ *five hundred dollars (\$500)*, or the person shall be required
37 to perform not less than 24 hours or more than 32 hours of
38 community service during hours when the person is not employed
39 or is not attending school, or a combination of fine and community
40 service as determined by the court. A second or subsequent

violation of this section shall be punished by a fine of not more than ~~two hundred fifty dollars (\$250)~~ *one thousand dollars (\$1,000)*, or the person shall be required to perform not less than 36 hours or more than 48 hours of community service during hours when the person is not employed or is not attending school, or a combination of fine and community service, as the court deems just. It is the intent of the Legislature that the community service requirements prescribed in this section require service at an alcohol or drug treatment program or facility or at a county coroner's office, if available, in the area where the violation occurred or where the person resides.

(b) The penalties imposed by this section do not preclude prosecution or the imposition of penalties under any other provision of law, including, but not limited to, Section 13202.5 of the Vehicle Code.

SEC. 4. Section 25660.5 of the Business and Professions Code is amended to read:

25660.5. Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the majority and identity of ~~such~~ *the* person or who sells, gives or furnishes to any person under the age of 21 years evidence of majority and identification of any other person is guilty of a misdemeanor *and shall be punished by a fine of two thousand five hundred dollars (\$2,500), no part of which shall be suspended, and by imprisonment in the county jail for not more than one year.*

SEC. 5. Section 25661 of the Business and Professions Code is amended to read:

25661. (a) Any person under the age of 21 years who presents or offers to any licensee, his or her agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his or her possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least ~~two hundred fifty dollars (\$250)~~ *five hundred dollars (\$500)*, no part of which shall be suspended; or the person shall be required to perform not less than 24 hours nor more than 32 hours of

1 community service during hours when the person is not employed
2 and is not attending school, or a combination of fine and
3 community service as determined by the court. A second or
4 subsequent violation of this section shall be punished by a fine of
5 not more than ~~five hundred dollars (\$500)~~ *one thousand dollars*
6 *(\$1,000)*, or the person shall be required to perform not less than
7 36 hours or more than 48 hours of community service during hours
8 when the person is not employed or is not attending school, or a
9 combination of fine and community service, as the court deems
10 just. It is the intent of the Legislature that the community service
11 requirements prescribed in this section require service at an alcohol
12 or drug treatment program or facility or at a county coroner's
13 office, if available, in the area where the violation occurred or
14 where the person resides.

15 *(b) The penalties imposed by this section do not preclude*
16 *prosecution or the imposition of penalties under any other*
17 *provision of law, including, but not limited to, Section 13202.5 of*
18 *the Vehicle Code.*

19 *SEC. 6. Section 25662 of the Business and Professions Code*
20 *is amended to read:*

21 25662. (a) Any person under the age of 21 years who has any
22 alcoholic beverage in his or her possession on any street or highway
23 or in any public place or in any place open to the public is guilty
24 of a misdemeanor and shall be punished by a fine of ~~two hundred~~
25 ~~five dollars (\$250)~~ *five hundred dollars (\$500)* or the person shall
26 be required to perform not less than 24 hours or more than 32 hours
27 of community service during hours when the person is not
28 employed or is not attending school. A second or subsequent
29 violation shall be punishable as a misdemeanor and the person
30 shall be fined not more than ~~five hundred dollars (\$500)~~ *one*
31 *thousand dollars (\$1,000)*, or required to perform not less than 36
32 hours or more than 48 hours of community service during hours
33 when the person is not employed or is not attending school, or a
34 combination of fine and community service as the court deems
35 just. It is the intent of the Legislature that the community service
36 requirements prescribed in this section require service at an alcohol
37 or drug treatment program or facility or at a county coroner's
38 office, if available, in the area where the violation occurred or
39 where the person resides. This section does not apply to possession
40 by a person under the age of 21 years making a delivery of an

1 alcoholic beverage in pursuance of the order of his or her parent,
2 responsible adult relative, or any other adult designated by the
3 parent or legal guardian, or in pursuance of his or her employment.
4 That person shall have a complete defense if he or she was
5 following, in a timely manner, the reasonable instructions of his
6 or her parent, legal guardian, responsible adult relative, or adult
7 designee relating to disposition of the alcoholic beverage.

8 (b) Unless otherwise provided by law, where a peace officer
9 has lawfully entered the premises, the peace officer may seize any
10 alcoholic beverage in plain view that is in the possession of, or
11 provided to, a person under the age of 21 years at social gatherings,
12 when those gatherings are open to the public, 10 or more persons
13 under the age of 21 years are participating, persons under the age
14 of 21 years are consuming alcoholic beverages, and there is no
15 supervision of the social gathering by a parent or guardian of one
16 or more of the participants.

17 Where a peace officer has seized alcoholic beverages pursuant
18 to this subdivision, the officer may destroy any alcoholic beverage
19 contained in an opened container and in the possession of, or
20 provided to, a person under the age of 21 years, and, with respect
21 to alcoholic beverages in unopened containers, the officer shall
22 impound those beverages for a period not to exceed seven working
23 days pending a request for the release of those beverages by a
24 person 21 years of age or older who is the lawful owner or resident
25 of the property upon which the alcoholic beverages were seized.
26 If no one requests release of the seized alcoholic beverages within
27 that period, those beverages may be destroyed.

28 (c) *The penalties imposed by this section do not preclude*
29 *prosecution or the imposition of penalties under any other*
30 *provision of law, including, but not limited to, Section 13202.5 of*
31 *the Vehicle Code.*

32 *SEC. 7. Section 13004.1 of the Vehicle Code is amended to*
33 *read:*

34 13004.1. (a) No person shall manufacture or sell an
35 identification document of a size and form substantially similar to
36 the identification cards issued by the department.

37 (b) A violation of this section is a ~~misdemeanor~~ punishable by
38 ~~a fine of not less than five hundred dollars (\$500) imprisonment~~
39 *in the state prison, or by imprisonment in the county jail for not*
40 *more than one year.*

1 *SEC. 8. Section 14610.1 of the Vehicle Code is amended to*
2 *read:*

3 14610.1. (a) No person shall manufacture or sell an
4 identification document of a size and form substantially similar to
5 the drivers' licenses issued by the department.

6 (b) A violation of this section is ~~a misdemeanor~~ punishable by
7 ~~a fine of not less than five hundred dollars (\$500) imprisonment~~
8 ~~in the state prison, or by imprisonment in the county jail for not~~
9 ~~more than one year.~~

10 *SEC. 9. No reimbursement is required by this act pursuant to*
11 *Section 6 of Article XIII B of the California Constitution because*
12 *the only costs that may be incurred by a local agency or school*
13 *district will be incurred because this act creates a new crime or*
14 *infraction, eliminates a crime or infraction, or changes the penalty*
15 *for a crime or infraction, within the meaning of Section 17556 of*
16 *the Government Code, or changes the definition of a crime within*
17 *the meaning of Section 6 of Article XIII B of the California*
18 *Constitution.*

19 ~~SECTION 1. Section 23387 of the Business and Professions~~
20 ~~Code is amended to read:~~

21 ~~23387. In addition to the other privileges exercised under a~~
22 ~~wholesaler's or a rectifier's license, a wholesaler or a rectifier may~~
23 ~~sell the alcoholic beverages mentioned in his or her license to~~
24 ~~persons who take delivery of the alcoholic beverages within this~~
25 ~~state for delivery or use outside of the state within 90 days from~~
26 ~~the date of the sale in accordance with rules and regulations~~
27 ~~prescribed by the department.~~